

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER J. SANDO,

Petitioner,

v.

SUPERINTENDENT GERALD
ROZUM, et al.,

Respondents.

Civil Action No. 08-96 Erie

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on April 8, 2008 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [14], filed on December 22, 2008, recommends that Respondents' motion to dismiss [10] be granted, that the Petition for Writ of Habeas Corpus be dismissed as untimely, and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI Somerset, where he is incarcerated. Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 22nd day of January, 2009;

IT IS ORDERED that Respondents' motion to dismiss [10] be, and hereby is, GRANTED and the instant petition for writ of habeas corpus is hereby DISMISSED as untimely. IT IS FURTHER ORDERED that no certificate of appealability shall issue, inasmuch as the Petitioner has not made a substantial showing of the denial of a

constitutional right and jurists of reason would not find it debatable whether the instant petition is untimely.

The Report and Recommendation [14] of Chief Magistrate Judge Baxter, filed on December 22, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge